UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10
1200 Sixth Avenue
Seattle, WA 98101

March 3, 2008

Reply to
Attn of: ETPA-088

Ref: 04-004-FHW

Mr. Ross Blanchard
Federal Highway Administration
Idaho Division Office
3050 N. Lakeharbor Lane, Suite 126
Boise, Idaho 83706

Dear Mr. Blanchard:

The U.S. Environmental Protection Agency (EPA) has reviewed the **Three Cities River Crossing Draft Environmental Impact Statement** (DEIS). We are submitting comments in accordance with our responsibilities under the National Environmental Policy Act (NEPA) and Section 309 of the Clean Air Act.

The Federal Highway Administration (FHWA), the Idaho Transportation Department (ITD), and the Ada County Highway District (ACHD) propose to construct a new roadway crossing of the Boise River at the juncture of the cities of Boise, Eagle, and Garden City in Ada County, Idaho. The project purpose and need is "...to increase surface travel capacity across the Boise River and link the intersection of SH-55 and State Street (SH-44) to Chinden Boulevard (US 20/26) between Glenwood Street and Eagle Road." The five action alternatives presented, each of which has a west and an east crossing option, are all variations in alignments that would make these connections. Alternative 6 is identified as the preferred alternative, but no preference is identified for a preferred river crossing option.

We commend FHWA, ITD, and ACHD for their efforts in preparing this DEIS. We think the reader/user-friendly question and answer format is helpful and largely effective. Our only suggestion is that its use may at times foster a tendency to omit necessary technical information. We also appreciate the fact that ACHD conducted a Delphi process to analyze the potential indirect effects of the project on travel and growth. This is a positive step forward to analyze the indirect effects of transportation projects that can serve as an example for future projects.

Our key concerns with the EIS pertain to air quality, including ozone, particulate matter, air toxics, and to wetlands, aquatic resources, floodplains, water quality and stormwater management, and the need to fully address mitigation for these impacts. Other needs include additional background information on purpose and need, providing ecological connectivity to reduce wildlife road kill, clean up and re-use of hazardous waste sites, and potentially more government to government consultation with tribes. Our detailed comments regarding these issues are enclosed.

In light of the above concerns, we rate the DEIS as EC-2, Environmental Concerns, Insufficient Information. An explanation of this rating is enclosed. If you have questions or would like to discuss these comments, please contact Elaine Somers of my staff at (206)553-2966 or at somers.elaine@epa.gov, or John Olson in our Boise Operations Office at (208)378-5756 or at olson.john@epa.gov. We appreciate being involved in this project, and look forward to continued participation. Thank you for the opportunity to offer comment.

Sincerely,

/s/
Christine B. Reichgott, Manager
NEPA Review Unit

Enclosures

cc: Mr. Wade Christiansen, ITD
Ms. Lisa Applebee, ACHD

U.S. Environmental Protection Agency
Detailed Comments for
Three Cities River Crossing Draft EIS

Purpose and Need

The Purpose and Need calls for increasing surface travel capacity across the Boise River in a specific location, which is based on the results of the Bench/Valley Planning Study. It is important to honor the results of planning studies, and this can be facilitated by providing information about the nature and quality of the study. For example, it would be helpful to know whether the study is current and remains relevant, whether it was conducted in an inclusive manner with adequate public involvement, and whether or not environmental concerns were adequately considered during planning. The provisions of SAFETEA-LU Section 6001, once fully implemented, should help to improve integration of NEPA and transportation planning. For studies not conducted pursuant to these provisions, it would be helpful to include a brief summary about the planning study as background information to the Purpose and Need.

Recommendation: In the Final EIS, include a brief summary of the Bench/Valley Planning Study that describes:

- When and why the study was conducted;
- Who was involved;
- The range of alternatives that were evaluated;
- What, if any, environmental issues were considered/analyzed;
- What sources of data/information were used to inform the analysis; and
- The outcome and its supporting rationale.

Range of Alternatives

Transportation System Management(TSM) and Mass Transit Alternatives

The DEIS states that, in accordance with FHWA Guidelines, TSM and Mass Transit alternatives were considered. We are concerned, however, that no information about these alternatives, which were eliminated during the screening process, is provided in the DEIS. For alternatives that were eliminated from detailed study, the EIS should "…briefly discuss the reasons for their having been eliminated" (40 CFR Part 1502.14). The DEIS states that the traffic forecast model assumes 25% of travel would not be done by single-occupant vehicles (SOVs), but no alternative describes the means by which this percentage would be achieved. All action alternatives have roadway design that accommodates bicycles and pedestrians, but none include mass transit or transit facilities, HOV lanes, carpooling, or other transportation demand management (TDM) strategies, even though much of the travel is anticipated to be commuter traffic (p. 4-36). Consequently, the proposed project continues to emphasize SOV use as the primary mode of travel.

Recommendation: See the recommendations for Air Quality below.

Environmental Consequences

Air Quality, Air Toxics, Climate Change

Air quality monitoring data show that Boise City is currently in attainment with the PM2.5 standards, but is close to violating the ozone standard. Ozone is created by anthropogenic sources of NOx and VOCs on warm, sunny days. As discussed above, continued reliance upon SOVs as the primary mode of travel would continue to exacerbate these conditions.

Recommendations:

- Include TSM, mass transit, carpooling provisions, and other appropriate TDM/TSM strategies in the action alternatives in order to address air toxics, and criteria air pollutant emissions, particularly volatile organic carbons (VOCs) and NOx emissions, which would help keep the Boise area in attainment with the ozone standard, and would also reduce greenhouse gas (GHG) emissions.
- To minimize ozone formation, perform construction work outside the ozone season (May-Oct) or on days when the temperature is below 80 degrees F. Use construction equipment and vehicles that have low emissions of NOx and VOCs.
- Consider exploring the use of tolls/congestion pricing at strategic locations, and/or the new concept of flexible carpooling, which has the potential to reduce vehicular use by at least 20% if every SOV driver shared a ride at least one day per week.

We appreciate the Mobile Source Air Toxics (MSATs) segment of the DEIS, which includes a good general discussion on this topic. We are concerned, however, that it does not disclose the potential human health risks associated with MSATs nor does it identify the sensitive receptor locations that would be most exposed to vehicular emissions. Vehicular exhaust still presents human health risks with increased vehicular speeds (p. 4-39) because diesel particulate matter, which carries a higher human health risk than other hazardous air pollutants, does not decrease with increasing speed. The proposed project would also include several signalized intersections, all of which would expose sensitive receptors to vehicular exhausts from idling, start-up and acceleration. Also, construction related emissions, for which mitigation measures are readily available and easy to apply, pose health risks for residents, businesses, and construction workers.

Recommendations:

- Disclose sensitive receptor locations for mobile source air toxics. These would include hotspots, such as intersections and construction zones, and facilities such as schools, hospitals, day care centers, nursing homes, ball fields, etc. Disclose the cancer and non-cancer human health effects of MSATs.
- Provide additional construction mitigation measures, such as, requirements for installation of control equipment on diesel construction equipment (particulate filters/traps, oxidizing soot filter, oxidation catalysts, and other appropriate control devices), use of clean fuels, idling limitations, and rerouting of diesel truck traffic away from communities and schools. For more information about air toxics, please contact Wayne Elson of our Air Program office at (206)553-1463.

The DEIS does not address greenhouse gas emissions (GHG) from mobile sources and the associated climate change effects. GHG emissions, approximately half of which come from fossil fueled vehicular emissions, are an environmental impact that should be disclosed in the EIS.

Recommendation: Include in the Final EIS GHG emissions estimates that would occur from the direct and indirect effects of the project, and include mitigation measures as described under Air Quality above.

Wetlands, aquatic resources, and floodplains

We believe the identification of the least environmentally damaging, practicable alternative (LEDPA) should consider all impacts to the aquatic system. Total acreage is a factor but not the only one; all factors related to the aquatic ecosystem, as well as all other environmental consequences as identified and evaluated in this DEIS must be considered in the identification of the LEDPA. Because the Clean Water Act Section 404(b)(1) Guidelines do not allow the discharge of dredged or fill material into waters of the United States for any project other than the LEDPA, identification of the LEDPA in the DEIS is equivalent to identifying the preferred alternative. Based on the information provided in this DEIS, EPA believes that the east river crossing appears to be the LEDPA based on environmental impacts (e.g. less impact to forested wetlands and avoids fragmenting the large block of forested wetland). The benefits of the west river crossing are not factors related to the aquatic ecosystem except for the total wetland acreage impacted, which we do not believe is an overriding factor in this case as described above.

Recommendation: In consultation with the Corps and EPA, identify the appropriate alternative as the LEDPA in the Final EIS.

Scrub-shrub and forested wetlands are described as providing almost identical functions and values (page 4-70, Table 4-16). While this table does not provide a functional assessment of these wetland types, the inference is that they are similar. EPA has found that forested wetlands along the Boise River, especially those in active floodplains with hydrologic connectivity to the river at high frequency flood flows, are the most important wetland habitat in this area. This is due to the historic loss of this habitat type along the Boise River, the importance of this habitat type to the charismatic wildlife species described elsewhere in the DEIS, the importance of this habitat type to the ecosystem processes in the Boise River, and, perhaps most importantly, the loss of the hydrologic conditions and riverine processes that allow the natural regeneration of the cottonwood forest. An additional factor regarding the importance of forested wetlands is the high degree of uncertainty associated with attempts to restore or establish this wetland type.

Recommendation: In the Final EIS, provide accurate functional assessments of the various wetland types, with emphasis upon the importance of forested wetlands along the Boise River. Efforts to avoid, minimize, and compensate for impacts to this wetland type should be commensurate with the high value of these wetlands, and the uncertainty associated with efforts to restore or establish them.

It is unclear whether or not the east and west river crossings have different risks of pit capture because of their locations relative to the gravel pits in the project area. Also, the west river crossings avoid floodway impacts with a longer bridge. A similar design would be highly beneficial for the east river crossing.

Recommendations:

- Evaluate and disclose the comparative risk of pit capture for the east and the west river crossings.

- Disclose whether the east river crossing could and would be designed similar to the west river crossing.

The DEIS states that the proposed project complies with local floodplain requirements, whose requirements are as strict as or stricter than the requirements of the National Flood Insurance Program. However, Executive Order 11988 on Floodplain Management addresses much more than just the NFIP requirements. As accurately described on page 4-80, the Executive Order also directs federal agencies to restore and preserve natural and beneficial floodplain values and to avoid support of floodplain development. The local requirements do not implement these measures. Compliance with local requirements cannot substitute for the obligations of federal agencies to consider all the factors that need to be evaluated per the EO 11988.

Recommendation: In the Final EIS, disclose the full obligations pursuant to E.O. 11988, and ensure that these as well as the local floodplain requirements are met.

There is no demonstration that the proposed mitigation ratios would provide no net loss of wetland functions and values. In fact, a wide range of ratios have been used throughout Idaho to determine appropriate wetland mitigation efforts. Therefore, more information is needed to establish an appropriate mitigation ratio for this project. Also, in the DEIS, the floodplain mitigation measures all relate to mitigation of hydraulic impacts. However, there are impacts to other floodplain values as well. The logic for hydraulic mitigation in the floodplain, particularly with respect to "compensating excavation" is unclear. Additional open water pits would seem to increase the risk of pit capture. It also seems that excavated areas that are filled with ground water at all times would provide little or no additional floodplain storage.

Recommendations:

- If ratios continue to be included as a measure of wetland mitigation needs, then the basis for these ratios should be established and documented.
- In the Final EIS, identify and provide mitigation for impacts to other floodplain values.
- Please provide the rationale for the proposed hydraulic mitigation measures.

It is noted that a Conceptual Wetland Mitigation Plan will be developed prior to release of the Final EIS. The DEIS also states that opportunities exist in the project area for environmental improvement and that the City of Eagle has identified the head of Eagle Island as "Eagle Island Special Area". We believe the Conceptual Wetland Mitigation Plan should have been developed and included with the DEIS in order that all parties, including the public, could have had the opportunity to review the potential mitigation measures and to evaluate the feasibility, practicability, and consequences of these potential measures. While there may be numerous opportunities for potential wetland mitigation efforts in or near the project area, at least two significant factors critical to the success of wetland mitigation efforts are not considered in the DEIS. These factors, the feasibility of implementing wetland mitigation efforts that would provide replacement gains in wetland functions and values and the acquisition/use/long-term protection of the sites, will be major factors in determining whether mitigation measures can compensate for wetland impacts. The uncertainty of these issues renders incomplete and uncertain any attempt to provide assurance about wetland mitigation efforts. We believe that ACHD, ITD, and FHWA should be moving forward at this time to make a firm commitment about wetland mitigation and to identify, design, acquire (through an appropriate real estate instrument), and implement appropriate wetland mitigation efforts.

Recommendation: ACHD, ITD, and FHWA should immediately begin discussions with resource and regulatory agencies about wetland mitigation opportunities and develop mitigation plans in the FEIS that are feasible, that can be implemented, that will replace lost wetland functions and values, and that will provide an assurance of success and permanent protection. We also believe that this information should be provided to the public for meaningful review and comment before it is incorporated into the Final EIS.

Water quality and stormwater management

The DEIS states (p. 4-57) that, stormwater "Retention ponds may be combined with existing ponds in the area; however, some treatment of the stormwater will occur." There is no analysis or disclosure of the type, concentrations, and volume of stormwater pollutants, or of the environmental effects of combining stormwater with the existing gravel mining ponds in the project area. The gravel ponds likely consist of groundwater that is connected to the riverine environment where movement and exchange occurs.

Recommendation: The EIS should describe the existing water quality in the gravel pit ponds and the fate and effect of contaminants discharged to them on water quality and the aquatic environment.

Ecological connectivity

The DEIS acknowledges habitat fragmentation and also states (p. 4-97) that road kill would likely increase in the area with implementation of the proposed project. We are concerned that no means to mitigate habitat fragmentation due to the proposed roadway/river crossing has been included. Wildlife crossings are needed for safety reasons to avoid vehicular-wildlife collisions, and to provide for safe movement of terrestrial species. Crossing sites could be provided by designing the bridge to span adequate upland to enable movement of terrestrial species under the bridge, thereby providing a continuous wildlife movement corridor. Fencing would also be needed to guide wildlife to the crossing locations and to prevent entry onto the roadway.

Recommendation: In coordination with IDFG and USFWS, provide ecological connectivity in project design, which provides safe movement under the bridge for terrestrial wildlife, with appropriate fencing.

Hazardous materials

We are concerned that all spilled concrete would be removed from the construction area and disposed of in a waste facility (DEIS, p. 4-112). Cement is in short supply (DEIS, p. 4-126), and it is possible to recycle used and spilled concrete, thereby re-using and conserving resources and avoiding the need for landfill space.

Recommendation: Determine whether there is a concrete recycling facility available to accept spilled or used concrete. If such a facility exists, include a requirement in the Final EIS and ROD that all spilled concrete must be recycled.

The DEIS, p. 4-111, also states that, if necessary, project design would be modified to avoid a contaminated site discovered during design or right-of-way negotiations. We encourage project proponents to view the discovery of a contaminated site as an opportunity to augment project benefits, rather than as something to be avoided. If "brownfield" sites were remediated and re-used,

"clean" lands/habitats could be conserved. The community would benefit from the new transportation infrastructure and a cleaner, healthier environment.

Recommendation: Keep contaminated sites within the right-of-way, clean them up, and re-use them for transportation infrastructure, thereby providing multiple community and environmental benefits.

Tribal consultation

The DEIS states (p. 5-13), that the Shoshone-Bannock and Shoshone-Paiute Tribes were invited to participate in project planning via letter in February 2004, and a copy of the Cultural Resources Technical Report was forwarded to the Shoshone-Paiute Tribe upon request. The tribes were also sent newsletters, meeting announcements, and copies of the DEIS. In response, the Shoshone-Paiute Tribe requested that they be contacted if human remains or artifacts are found during construction. This outreach has elicited response from the Shoshone-Paiute Tribe, but none from the Shoshone-Bannock Tribes. It is unclear whether adequate government to government consultation has occurred, in accordance with E.O. 13175.

Recommendation: Include information in the Final EIS that indicates how tribal consultation requirements pursuant to E.O. 13175 have been met.